

03/17/2020

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JULIA C. DUDLEY, CLERK
BY: *H. Wheeler*
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

DANIEL McMAHON,
Defendant.

CASE NO. 3:19-cr-00014

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court on its own motion and further to *In the Matter of: Court Operations Under the Exigent Circumstances Created by COVID-19*, W.D. Va. Standing Order No. 2020-5, which enters into effect on March 16, 2020 at 5:00 p.m.

As described in Standing Order No. 2020-5, the President of the United States and the Governor of the Commonwealth of Virginia have declared states of emergency in response to the pandemic of the coronavirus COVID-19, and its continued spread. The Centers for Disease Control and Prevention (“CDC”) have recommended people keep physical distance between themselves and other people in order to reduce the possibility of exposure to the virus and to slow the spread of the disease. Following guidance of the Administrative Office of the United States Courts and upon consultation with Virginia Department of Health Officials, the United States District Court for the Western District of Virginia issued Standing Order 2020-5, which, among other things, ordered that “[a]ll in-person criminal, civil and bankruptcy proceedings on or before March 31, 2020, are **CONTINUED** and will be rescheduled at a later date, unless a presiding judge in an individual case issues an order after the date of this Order directing that a particular proceeding will be held on or before March 31, 2020.” Standing Order 2020-5 at ¶ 2.

In addition, Standing Order 2020-5 determined that “[a]ll criminal jury trials on or before April 30, 2020, are **CONTINUED** and will be rescheduled. Issues concerning pending pretrial deadlines are to be addressed with the presiding judge. As regards continuances of criminal trials on or before April 30, 2020, the court, on its own motion, finds that the time of the continuances required by this order is excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), as the court finds that the ends of justice served by the continuances outweigh the interests of the parties and the public in a speedy trial.” Standing Order 2020-5 at ¶ 4. Specifically, the court determined that “the court is concerned about the reduced ability during this pandemic to obtain an adequate spectrum of jurors and the effect of existing public health recommendations on the availability of counsel, witnesses, and court staff to be present in the courtroom.” *Id.*

In view of the exigent circumstances addressed in, as well as the orders set forth by, Standing Order 2020-5, and upon consideration of the circumstances of this case, this Court finds that a continuance is warranted pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). The Court has taken into account the factors set forth in 18 U.S.C. § 3161(h)(7)(B) and further the Court is specifically concerned about the effect of existing public health recommendations on the availability and advisability of Defendant, counsel and the court staff to be present in the courtroom to conduct the plea hearing scheduled for March 20, 2020.

Pursuant to Standing Order 2020-5 and upon this Court’s own motion, it will be and hereby is **ORDERED** that Defendant’s plea hearing be **CONTINUED** until a later date in April 2020, to be scheduled by the parties, upon consultation with Heidi Wheeler, Scheduling Clerk. The Court finds that “the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). The period

between March 20, 2020 and the rescheduled date in April 2020 will be excluded from the calculation of time under the Speedy Trial Act.

The Clerk of Court is directed to send a certified copy of this Order to all counsel of record.

Entered this 17th day of March, 2020.


NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE